

Appl. No. 10/828,804

Attorney Docket No. 10541-1971

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II. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested.

After entering this amendment, claims 1-20 remain pending with claims 1, 4-7, 9, and 11-20 currently under examination and claims 2, 3, 8 and 10 being withdrawn from consideration.

Claim Rejections - 35 U.S.C. §112

Claims 1, 4-7, 9 and 11-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The examiner takes the position that the cross-section of the elected embodiment does not show the entire dome surface and, therefore, it cannot be determined that there are no apertures.

However, referring to Figure 1 of the application, the present invention is shown in a perspective view. Hidden lines show the outline of features located behind solid surfaces. In this view, it is clear that none of the dome shaped protrusions 22 and 34 show the presence of any apertures or openings in their surfaces. If such structures existed, they would be shown using either solid or hidden lines. Similarly, Figure 2 shows an embodiment in a side elevational view with portions being cut away. As is readily evident from this figure, the energy absorbing padding is a surface of rotation without any apertures in the domes. Further, looking at the sectional view of Figures 4 and 6-8, interior surface lines can be seen on these domes. Thus, if apertures existed in these mirror half structures, they would be illustrated or at least commented upon. In discussing

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- 7 -

Appl. No. 10/828,804

Attorney Docket No. 10541-1971

the elected embodiment of Figure 4, the specification (at paragraph [0027]) references the embodiment of Figures 1 and 2. Specifically, the text introduces Figure 4 by stating "[A]s in the first padding 10, the second padding includes..." and then recites a list of common structural elements of the two paddings. The paragraph even goes on to contrast the padding 50 of Figure 4, stating that in "the second padding 50, however, the elements of the lower layer 54 project in the same direction as the elements 56 of the upper layer 52". From this, it is apparent that the structures of Figures 1 and 2 are substantially the same as that of Figure 4 (other than being oriented in the same direction in Figure 4) and that no apertures are formed in any side wall.

In reviewing an application under 35 U.S.C. 112, the *entire* specification, including the figures, is to be used in determining whether claims comply with the written description requirement, not only those cross-sections relating to the elected embodiment. See MPEP § 2163(II)(A)(2). The specification, as a whole, as the present application never mentions apertures in any embodiment, never shows such a construction, and never provides a reason as to why such a feature would even be provided. Therefore, it is submitted that the specification does support first and second elements having uninterrupted surfaces of rotation. Accordingly, it is believed that this rejection is in error and should be withdrawn.

Claim Rejections - 35 U.S.C. §103(a)

Claims 1, 4-7, 9 and 11-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bach et al in view of Hall. Applicants respectfully traverse these rejections.

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- 8 -

Appl. No. 10/828,804

Attorney Docket No. 10541-1971

As noted by the examiner, Hall discloses a shock absorber teaching the use of fluid from an *ambient* environment as a working fluid. Hall, col. 1, lines 34-36, and col. 2, lines 23-25. This is accomplished by providing a plurality of openings or apertures 24, 40 in chamber walls 14, 32 and 34 to place chamber volumes 16, 36 and 38 of various embodiments into fluid communication with the ambient environment. *Id.* at col. 2, lines 29-34, Figs. 1-4. On the other hand, Bach discloses vibration isolation structure including two plates separated by a vibration reducing material having at least three individual containers filled with fluid. Bach at col. 1, lines 63-65, col. 2, lines 66-68 and Fig. 1. The containers 17a, 18, 19 and 20 are sealed from the ambient environment and filled with a non-ambient fluid such as, for example, air at 12 to 15 psi above atmospheric pressure, liquid silicon, or water. *Id.* at col. 2, lines 70-75, and col. 3, lines 1-5.

From this, it is submitted that Bach teaches away from any combination with Hall since Bach requires a *non-ambient* working fluid while Hall teaches apertures in communication an *ambient* working fluid. See MPEP § 2145(X)(D). Furthermore, it is submitted that if one were to modify Hall with the containers of Bach, such a modification would change the principle of operation of Hall by requiring the use of non-ambient fluid in the sealed containers of Bach. See MPEP § 2143.01. Since the disclosure of Bach teaches away from or changes the principle of operation of Hall, the combination of Bach in view of Hall is improper and should be withdrawn.

Referring now to claim 1, it is submitted that Hall fails to disclose first and second elements having *uninterrupted* surfaces of rotation. Since the outer and inner chamber walls 32 and 34 of Hall are interrupted by a plurality of apertures

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- 9 -

Appl. No. 10/828,804

Attorney Docket No. 10541-1971

40, placing the internal chamber volumes 36 and 38 into fluid communication with the ambient environment, and since Bach cannot be combined with Hall as noted above, the rejection based thereon should accordingly be withdrawn.

Regarding claim 13, it is submitted, for at least the same reason noted above, that Hall fails to disclose first and second elements defined by *uninterrupted* surfaces of rotation. In addition, it is further noted that Hall discloses a *spherical* shock-absorber 10, a *toroidal* shock absorber 54, and shock absorber *spheres* 72, 74, 76, 78, and 80. *Id.* at col. 2, line 13, col. 3, line 35, col. 4, line 1 and Figs. 2, 4, 7, and 9. As one skilled in the art would readily appreciate, a sphere is defined by a circular surface of rotation rotated through an axis running through a center point of the circle and a torus is defined by rotating a circular surface of rotation about an axis offset from the center point of the circle. From this it is submitted that Hall also fails to disclose uninterrupted *arch-shaped* surfaces of rotation, and since Bach cannot be combined with Hall as noted above, the rejection based thereon should also be withdrawn.

In that Hall fails to disclose or suggest elements that are defined by uninterrupted surfaces of rotation, and since Bach cannot be combined with Hall, it must be concluded that the present references cannot render the claims of the present application as obvious. The rejection under § 103 is therefore improper and should be withdrawn.



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- 10 -

Appl. No. 10/828,804

Attorney Docket No. 10541-1971

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Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is respectfully requested.

Respectfully submitted,

6/5/07

Date



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- 11 -